

### **REMARKS**

Reconsideration of this application and the rejection of claims 1-21 are respectfully requested. Applicants have attempted to address every objection and ground for rejection in the Office Action dated April 7, 2006 (Paper No. 033106) and believe the application is now in condition for allowance. In the alternative, the claims are submitted to be in better form for appeal. The claims have been amended to more clearly describe the present invention.

Claims 1-21 stand rejected under 35 U.S.C. §112 ¶1 for failure to comply with the written description requirement. In particular, the Examiner argues that in claims 1 and 21, the expression “fins having a generally rectangular, washer shaped cross section” is not supported in the specification and that in claim 8, “fins having a generally rectangular cross section” is not supported.

Support for claimed features can be found in the drawings, in which FIGS. 3 and 4 depict the fins 30 and 32 project radially from the circular wall 28 of the cap towards the container neck. (see Specification at p. 11, lines 26-31) Also FIGS. 3-6 depict the fins as being generally washer-shaped, as described in the Specification on p. 4, lines 5-10. Further, as shown in FIGS. 3-6, fins 30 and 32 have a generally rectangular cross-section. Accordingly, this rejection is respectfully traversed.

Claims 1 and 5-7 stand rejected under 35 U.S.C. §102(b) as being anticipated by Middleton et al. (U.S. Patent No. 4,251,002). Claim 1, as currently amended, now includes features of cancelled claim 14, which was not rejected under

§102. In particular, claim 1 now recites, among other things, that the closure cap is provided with one of a thread and a threaded portion configured for coupling the closure cap with the container. Middleton does not disclose a threaded cap. Therefore, this rejection is respectfully traversed.

Claims 1-21 stand rejected under 35 U.S.C. §103(a) as being obvious under Poore et al. (U.S. Patent No. 4,782,964) in view of Middleton. The Examiner contends that Poore discloses a threaded cap that has a cone-shaped projection. This rejection is respectfully traversed.

Poore does not disclose a threaded cap or a cone-shaped plug used to close discharge aperture. The structure identified by the Examiner as a thread is described as a edge 26 in the specification, and does not engage the container neck. In the event the Examiner meant to refer to 36, this is also not a thread but an annular locking ring. Accordingly, Poore does not disclose a threaded cap. Since neither Poore nor Middleton disclose this feature of claim 1, the rejection of claim 1 and claims 2-8, 10-13, 15, 17-20 depending therefrom is respectfully traversed.

Amended Claim 8 is not disclosed by the combination of Poore and Middleton because neither Poore nor Middleton disclose a closure cap wherein a fin sealing device is provided having at least two radially projecting, elastic fins, said fins having a greater radial length than axial length, which are spaced apart in the axial direction of said closure cap and integrally connected to said closure cap, said fins having a generally rectangular cross-section and being configured for engaging the container

neck. Further, there is no incentive to combine Poore with Middleton to make this combination.

The feature added to claim 8 in this Amendment, (“said fins having a greater radial length than axial length”) can be seen in FIGS. 3 and 4. In Poore, the rings 34 and 35 are not rectangular, and in Middleton, the square rings 16 are square and as such are not rectangular as now recited. The claimed structure and composition of the fins is not disclosed by either Middleton or Poore, which describe the structures identified by the Examiner as sealing rings 16 and ribs 34 and 35, respectively. Applicants submit that neither Poore nor Middleton recognized the disadvantages of relatively small ribs for sealing. The invention as now recited provides a more positive and long-lasting sealing relationship between the closure and the container neck. Accordingly, the rejection of claim 8 is respectfully traversed.

Further, the structure identified by the Examiner as a cone-shaped plug is a ring-shaped plug. In Poore, the ring has a flared barb forming at best a frustoconical shape, which is not the same as the cone-shaped plug recited in claim 21. A cone is an object that has a circular base and tapers to a point at the top. The structure identified by the Examiner is defined by the Poore specification as being annular. Annular means ring-shaped. Also, Applicants submit that there is no incentive to combine Poore with Middleton. Accordingly, Claim 21 is not disclosed or suggested by Poore and Middleton, either alone or in combination.

Claims 1-20 stand rejected under 35 U.S.C. §103(a) in view of a combination Neiger (U.S. Patent No. 5,853,093) and Middleton. The arguments asserted above traversing Middleton are reasserted here. Neiger discloses a cap with a hinged lid for beverage containers. Neiger does not disclose any sealing means that engages the container neck.

Neither Neiger nor Middleton, alone or in combination, disclose or suggest a closure cap having at least one circumferentially closed wall section, wherein a fin sealing device is provided having at least two radially projecting, elastic fins which are spaced apart in the axial direction of said closure cap and integrally connected to said closure cap, said being configured for engaging the container neck. Further, there is no motivation to combine Neiger with Middleton.

With respect to claim 1 and dependent claims 2-8, 10-13, 15, 17-20, the rings on the cap do not engage the container neck. In Middleton, the structures identified by the Examiner as fins (sealing rings 16) are attached to a removable plug. Since claim 1 recites that the closure cap is coupled to the container, the plug of Middleton cannot function as a cap as claimed. Neiger does not disclose rings that engage the container neck as the structure identified by the Examiner as a sealing ring is a locking mechanism for the hinged cap over the dispensing aperture. Since neither Middleton nor Neiger disclose a fin sealing device on a closure cap being configured for engaging the container neck, the rejection of these claims is respectfully traversed.

Serial No.: 10/787,068  
Filed: February 25, 2004

With respect to claim 8, the plug of Middleton would be considered a cap lid. However, as previously noted, in the claims, the fins do not appear on the cap lid, but rather the closure cap. Since neither Middleton nor Neiger disclose a fin sealing device on a closure cap being configured for engaging the container neck, the rejection of these claims is respectfully traversed.

In view of the above amendments, the application is respectfully submitted to be in allowable form or in better position for appeal. Allowance of the rejected claims is respectfully requested. Should the Examiner discover there are remaining issues which may be resolved by a telephone interview, he is invited to contact Applicants' undersigned attorney at the telephone number listed below.

Respectfully submitted,

GREER, BURNS & CRAIN, LTD.

By



Christopher J. McGeehan  
Registration No. 56,001

**Customer No. 24978**

July 7, 2006  
Suite 2500  
300 S. Wacker Drive  
Chicago, Illinois 60606-6501  
Telephone: (312) 360-0080  
Facsimile: (312) 360-9315